

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 16-18 and 22 are pending in the application, with claim 16 being the sole independent claim. Claim 17 is sought to be amended. Support for amended claim 17 can be found throughout the specification, for example, at page 10, lines 15-25. No new matter is added by way of this amendment. Applicants believe that the amendment to claim 17 presents the claim in better form for consideration on appeal. Therefore, the amendment after final rejection should be entered and considered. *See* 37 C.F.R. § 1.116(b)(2).

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***I. Correspondence Address for This Application***

The Office Action issued in this application on August 10, 2004 was mailed to Mark R. Shanks at Reed Smith, LLP. In Applicants' previous response, it was noted that a Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record was filed in this application on August 30, 2004, requesting that all correspondence be sent to:

Customer Number 26111  
Sterne, Kessler, Goldstein & Fox, P.L.L.C.  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934.

A copy of this document was also submitted with Applicants' Amendment and Reply filed on January 5, 2006. Nonetheless, the present Office Action was once again addressed to Mark R. Shanks at Reed Smith LLP. Applicants did not discover the existence of this Office Action until August 4, 2006, when Applicants' undersigned representative conducted a status check of this matter on the USPTO's Public PAIR website.

Due to the USPTO's failure to properly update the correspondence address for this application, Applicants are required to pay for and file herewith a petition for a two (2) month extension of time under 37 C.F.R. § 1.136(a). Applicants request that the costs associated with the petition for extension of time be credited to Deposit Account No. 19-0036, and that the amount of time greater than three months between the issuance of the Office Action on March 28, 2006 and the filing date of this paper *not* be deducted from any patent term adjustment to which this application may be otherwise be entitled under 37 C.F.R. § 1.702.

## ***II. Nonstatutory Double Patenting Rejections***

Claims 16-18 and 22 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 and 9-11 of U.S. Patent No. 6,723,532, in view of any one of (i) Kobayashi *et al.*, (ii) Hudgins *et al.*, (iii) Duckett *et al.*, (iv) Datta *et al.*, (v) Srinivasula *et al.*, (vi) Schendel *et al.*, (vii) Winkler *et al.*, (viii) Clements *et al.*, (ix) Hearn *et al.*, or (x) Teng *et al.* (Office Action, page 4).

Applicants submit herewith a Terminal Disclaimer over U.S. Patent No. 6,723,532, thereby obviating this rejection.

**III. Claim Rejections Under 35 U.S.C. § 103**

**A. Rejections Based on U.S. Patent No. 6,723,532 to Nagai *et al.***

Claims 16-18 and 22 were rejected under 35 U.S.C. § 103(a) as being obvious over either of (i) Hearn *et al.*, or (ii) Teng *et al.*, and U.S. Patent No. 6,723,532 to Nagai *et al.* (Office Action, page 6).

Claims 16-18 were rejected under 35 U.S.C. § 103(a) as being obvious over Clemens *et al.* and U.S. Patent No. 6,723,532 to Nagai *et al.* (Office Action, page 8).

Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being obvious over any one of (i) Kobayashi *et al.*, (ii) Hudgins *et al.*, (iii) Duckett *et al.*, (iv) Datta *et al.*, (v) Srinivasula *et al.*, (vi) Schendel *et al.*, or (vii) Winkler *et al.*, and U.S. Patent No. 6,723,532 to Nagai *et al.* (Office Action, page 9).

Submitted herewith is a Statement of Common Ownership which establishes that the above-captioned U.S. Patent Application (No. 09/843,922), and U.S. Patent No. 6,723,532 to Nagai *et al.* were, at the time the invention of Application No. 09/843,922 was made, owned by, or subject to an obligation of assignment to, DNAVEC Research, Inc. Therefore, under 35 U.S.C § 103(c)(1), U.S. Patent No. 6,723,532 is disqualified as prior art against the present application.

Accordingly, the rejections under 35 U.S.C § 103 based on the Nagai *et al.* patent should be withdrawn.

**B. Rejections Based on U.S. Patent No. 6,514,728 to Kai *et al.***

Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.* (Office Action, page 11).

Claims 16-18 and 22 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.*, and further in view of any of Clements *et al.*, Teng *et al.*, or Hearn *et al.* (Office Action, page 12).

Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.*, and any of Kobayashi *et al.*, or Hudgins *et al.* (Office Action, page 13).

Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.*, and any of Schendel *et al.*, Srinivasula *et al.*, Datta *et al.*, or Duckett *et al.* (Office Action, page 14).

Applicants note that U.S. Patent No. 6,514,728 to Kai *et al.* is not prior art with respect to the present application. As noted in Applicants' Amendment and Reply filed on October 5, 2004, the present application is a continuation-in-part of U.S. Patent Appl. No. 09/720,979, filed on March 7, 2001, which is a U.S. National Phase Application of International Appl. No. PCT/JP99/03552, filed on July 1, 1999, which claims the benefit of Japanese Patent Appl. No. 10/204333, filed July 3, 1998. A proper claim to priority was timely made in the present application. *See, e.g.*, Continuation-in Part Application Transmittal, dated April 30, 2001, and the Combined Declaration and Power of Attorney for Patent Application, submitted on August 30, 2001.

Thus, the present application is entitled to the benefit of at least the filing date of International Appl. No. PCT/JP99/03552, *i.e.*, July 1, 1999. Since this filing date is earlier than the U.S. filing date of the Kai *et al.* patent (November 9, 1999), the Kai *et al.* patent is not a prior art reference under 35 U.S.C § 102(e).

Accordingly, the rejections under 35 U.S.C § 103 based on the Kai *et al.* patent should be withdrawn.

#### ***IV. Information Disclosure Statements***

Upon reviewing the present file, it was discovered that the Examiner has not officially acknowledged his consideration of the documents submitted with the Information Disclosure Statements filed in this application on May 26, 2004, July 28, 2004, and October 28, 2005. In particular, it was discovered that the Examiner has not yet provided signed/initialed copies of the PTO-1449 and PTO/SB/08B forms that were filed with these IDSs. Applicants respectfully request that the Examiner initial and return a copy of the IDS forms and indicate in the official file wrapper of this patent application that the documents listed thereon have been considered.

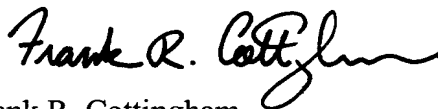
***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Supplemental Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: AUG. 28, 2006

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